

UNITED STATES OF AMERICA)
)
 Plaintiff,)
) CRIMINAL CASE NO. PX-16-0421
 vs.)
)
 ROY DAVID EVANS,)
)
 Defendant.)

A P P E A R A N C E S

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1 P R O C E E D I N G S

2 (Call to Order of the Court.)

3 THE DEPUTY CLERK: All rise.

4 The United States District Court for the District of
5 Maryland is now in session, the Honorable Paula Xinis
6 presiding.

7 THE COURT: Good afternoon, everyone.

8 If the government would call the case.

9 MR. HAGAN: Calling Criminal No. PX-16-421, United
10 States versus Roy David Evans, Junior.

11 Timothy Hagan on behalf of the United States. Good
12 afternoon, Your Honor. I'm joined at counsel table by HSI
13 Special Agent Christine Carlson.

14 THE COURT: Okay, good afternoon. Welcome.

15 MR. SZEKELY: Good afternoon, Your Honor. Andrew
16 Szekely and Patricia Richman on behalf of Mr. Evans. Mr. Evans
17 is present to my far left this morning.

18 We're also joined here today by a few individuals in the
19 gallery. Would you like me to introduce them now, Your Honor?

20 THE COURT: That would be great.

21 MR. SZEKELY: We're joined by his father, Roy Evans
22 Senior, Bradley Deis, his sister Jessica Evans, Ms. Jackie
23 Oberio. On our far right is our staff investigator, Elizabeth
24 Sandman, friend of the family Cindy Stevenson, Tom Farmer, and
25 Jeffrey Willis.

1 Additionally, Mr. Evans' Uncle John was here this morning
2 but, unfortunately, due to scheduling matters, he could not
3 come to this rescheduled procedure.

4 THE COURT: Okay. And I believe that almost everyone
5 has written in this case, and I've read everything that you've
6 sent, and I thank you very much for your input, as well as your
7 presence here today.

8 MR. SZEKELY: Thank you.

9 If I could add two other things that I think will -- one
10 which will expedite this proceeding here today.

11 THE COURT: Okay.

12 MR. SZEKELY: The first is -- which is not the one
13 which will expedite it -- I know the Court has read a lot about
14 Mr. Evans' upbringing. We're not planning on calling any
15 witnesses to that effect or having really anyone except counsel
16 address that. However, his sister Jessica has expressed a
17 willingness to speak to the Court should the Court have any
18 questions. She's present. She'll be happy to speak to the
19 Court. If not, then --

20 THE COURT: I mean, my position on it is I have read
21 everything. It's extremely traumatic and difficult for the
22 family to live and relive. It has not been challenged by the
23 government in any way, so I don't see any point in putting your
24 sister through that, unless there is something in addition you
25 all wish for me to know.

1 MR. SZEKELY: There is nothing additional, Your
2 Honor.

3 THE COURT: Okay.

4 MR. SZEKELY: And the other matter is we filed a
5 letter either late Thursday or early Friday regarding the
6 testimony -- narrowing the scope of the testimony here today.
7 Additionally, since this morning, after that letter, all that
8 would have been left would have been testimony regarding
9 Victim-1, minor number one, and what the -- essentially Count
10 One of the original Superseding Indictment would have been.

11 Ms. Richman and I have met with Mr. Evans this morning.
12 We have reviewed with him what the government's evidence would
13 be. We've shared the government's exhibits with him --

14 THE COURT: Is that the binder that I've been given,
15 which is why it's been shared with Mr. Evans?

16 MR. SZEKELY: Correct.

17 MR. HAGAN: Yes, Your Honor.

18 MR. SZEKELY: We've discussed the contents of the
19 binder. We've discussed the victim impact testimony we've
20 received, and based on those discussions, Your Honor, Count One
21 was left open at the time of the plea.

22 Mr. Evans -- Counsel is prepared today, after discussing
23 with Mr. Evans, to acknowledge that though there are some
24 inconsistencies in the testimony that would have been presented
25 today, given the standard of proof required here today at

1 sentencing, and having reviewed the factual proffer made by the
2 government in their sentencing submission, we will be prepared
3 to proceed by way of essentially proffer as to those facts.

4 My understanding is that the government would then not be
5 calling Special Agent Carlson for any purpose, and we would
6 just simply go, with the Court's approval of this arrangement,
7 on to discussions of the guidelines and then on to the 3553(a)
8 discussions at sentencing.

9 THE COURT: Okay, and that is fine. I guess what
10 I'll ask, though, is -- and I would imagine Mr. Hagan is likely
11 intending to do this, is to walk me through the significance of
12 these exhibits. To the extent the defense disagrees with any
13 of it, let me know. But right now I've just been given, in
14 addition to the double-sided pages on this binder that we've --
15 I've read and have been given, I've now been given up this
16 additional packet of material.

17 And so without some guidance as to why you think it's
18 relevant to the analysis, it's going to be hard for me to
19 follow in a vacuum. Does that make sense, Mr. Hagan?

20 MR. HAGAN: Yes, Your Honor.

21 THE COURT: Okay.

22 All right, with that, let's start with first things first.
23 With respect to the presentence report, Mr. Evans, at -- this
24 has been filed at ECF 118. Have you had enough time to review
25 the presentence report and discuss it with your counsel in

1 advance of today?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Okay. Are there any additions,
4 corrections, or changes to the presentence report, Mr. Szekely?

5 MR. SZEKELY: Your Honor, we had asked -- I think
6 there was -- we had asked the presentence report to include
7 additional information regarding Mr. Evans' mother's history.
8 I think it was not added in, however, we've had an opportunity
9 to provide that to the Court in the form of the sentencing
10 memorandum so --

11 THE COURT: And to the extent you believe that either
12 Ms. Sandman's report or I believe the additional report that
13 you provided me would be helpful with respect to programming,
14 you may want to ask probation to attach it to the presentence
15 report.

16 MR. SZEKELY: And I will talk with -- I see
17 Ms. Blanche is here. We'll talk with Ms. Blanche after court.
18 I would like it to go up in the e-docket system so that the
19 medical staff at the appropriate institution will be able to
20 have that on hand and hopefully expedite the process.

21 THE COURT: Okay, great. Other than that, there are
22 no additions, corrections, or changes?

23 MR. SZEKELY: That's correct.

24 THE COURT: All right.

25 Mr. Hagan?

1 MR. HAGAN: Your Honor, I think that -- hopefully we
2 clarified it in our sentencing memorandum. There was a dispute
3 at one time about whether the defendant -- and it was contained
4 in our plea agreement as well about whether there would be
5 three extra points, from 43 to 46, in the government's position
6 with respect to relevant conduct.

7 In light of our further research and conversations with
8 pretrial, we do not -- we're no longer taking the position that
9 that counts. We don't have any objection to the PSR as it
10 stands, the numbers that are contained therein.

11 THE COURT: Okay, which means that everyone is in
12 agreement the final offense level is 43?

13 MR. HAGAN: Yes, Your Honor.

14 MR. SZEKELY: Correct, Your Honor.

15 THE COURT: Okay. All right.

16 Ms. Blanche, I see you in the courtroom. I know
17 Ms. Jackson prepared this report, and if you would convey my
18 thanks to her, and thank you for being here. It's a well-done
19 report as always.

20 MS. BLANCHE: Certainly, Your Honor.

21 THE COURT: All right, that means we now turn to the
22 3553 analysis. I recognize that there is a statutory mandatory
23 minimum associated with the production count of 15 years
24 imprisonment, and that's what the defense is recommending. The
25 government is asking for substantially more. I would like to

1 start with the government, actually, and then move to the
2 defense.

3 Let me ask you this, just one other preliminary matter.
4 Given the resolution that you all have reached, are there any
5 other witnesses that either side wishes to call?

6 MR. HAGAN: There are not, Your Honor.

7 MR. SZEKELY: No, Your Honor. Thank you.

8 THE COURT: Okay. All right, then I'll start with
9 you, Mr. Hagan.

10 MR. HAGAN: Your Honor, the reason I stood out of
11 turn just a moment ago was I wanted to confirm that the Court
12 had received the Victim Impact Statements that were submitted
13 by the government. There were, as I count, four, and I wanted
14 to make sure that the Court had all of them.

15 THE COURT: Well, thank you for bringing that up,
16 because some of them are in a strange format, and I'm not sure
17 if I'm looking at the right thing. I have been given one which
18 is -- it says at the top in handwriting from stepmother of V1,
19 and that's a several-page letter. I've been given what says
20 mom at V2, which is a handwritten on the form that's provided.
21 I've been given mother of V3, which looks like a shorter email,
22 less than a page. And then I've been given, again in
23 handwriting, what says Victim Impact Statement from V1, and
24 this is where the format gets strange. So I have in one font
25 and then a much larger font -- and then an email from it looks

1 like the father of V1.

2 So I guess my only outstanding query is: Is this all V1?
3 And what I'm pointing to is what looks like a text maybe that
4 starts with one kind of font going down the left side of the
5 page and then a much larger font.

6 MR. HAGAN: Yes, Your Honor.

7 THE COURT: Is that all from V1?

8 MR. HAGAN: Yes, Your Honor. We had some -- I think
9 there were some format difficulties coming in, and there were
10 some format difficulties getting it to the Court. We didn't
11 want to -- as long as it was legible in terms of it, we wanted
12 to preserve it as we received it.

13 THE COURT: Right, and that makes sense to me.

14 So I have seen them. I've read them all.

15 MR. HAGAN: Thank you, Your Honor.

16 THE COURT: Are there any other Victim Impact
17 Statements that I should have received?

18 MR. HAGAN: Not from the government, Your Honor, no.

19 THE COURT: Okay. All right.

20 Mr. Hagan, I know I'm taking it -- I usually do the
21 reverse, but you're asking for a substantial sentence, and I
22 preliminarily agree with the defense. I'm not quite sure how,
23 based on your memorandum, they are tied into the 3553(a)
24 factors or the additional information you've given me. So I'm
25 going to start with you.

1 MR. HAGAN: Absolutely, Your Honor.

2 So because we're proceeding in a little bit of a different
3 fashion, I may be jumping around sometimes, because a few
4 minutes ago we may have been calling a witness and that would
5 have gone in another direction.

6 So let me first talk to the Court about the conduct that
7 we believe here -- the history and circumstances of the nature
8 of this offense or these offenses.

9 Dating back to June or July of 2015, Victim 1 moved up
10 here and relocated to Maryland to live with her stepmother,
11 step sister, father, and it was during that period of time that
12 we also know that Mr. Evans was casting out this net on
13 Craigslist, these solicitations, these advertisements for young
14 models, et cetera. That information is explained in the
15 Statement of Facts.

16 And it was during that period of time that the victim,
17 new -- Victim 1, new to this area, new to this setting, began
18 this correspondence with the defendant.

19 I should note that Victim 1, even at that time, prior to
20 meeting the defendant, was a vulnerable person, and that was
21 not just because of her age. She was born in 2001 and, at that
22 stage, would have been about 14 years old, having turned 14 a
23 few months prior. But she also in her background had been the
24 victim of abuse.

25 She had been living in a situation where the boyfriend of

1 her mother had been actually found guilty of committing sexual
2 abuse against her. She came up to live here and was in a
3 stable setting, and her -- we're fortunate to have the Victim
4 Impact Statement that was sent by the woman who was the
5 stepmother who was basically her champion through this process.
6 The person who discovered what was going on, the person who
7 made sure the police and law enforcement found out about this,
8 the person who made sure that Victim 1, the child, was where
9 she needed to be with respect to meeting with law enforcement
10 as the process continued and we prepared for trial, et cetera.

11 And in those summer months, eventually this came out to
12 the stepsister, and stepmother learned about it. Stepmother
13 confiscated and sought what she could do to get her hands on
14 this to say what's going on? Is there evidence of this?
15 You're on your phone all the time. I'm hearing that you're
16 meeting with someone that's older in their 20s -- which was
17 false but it was what was said perpetrated by the defendant --
18 and wanted to get to the bottom of this, obviously,
19 immediately.

20 During that course of time, as step mom is investigating,
21 she's also deleting these horrific things that she's reading.
22 She's taking them off the device so that the child isn't going
23 to -- hopefully is not going to be able to contact whoever this
24 person is in the future. Obviously, that ultimately
25 compromised our ability to get the evidence that we were

1 looking for.

2 And this was a reluctant victim because this victim, as
3 you will see as you begin to parse it out -- and I'll go
4 through a little bit of what was Government's Exhibit 1 here.
5 In these chats that were found from the defendant's phone,
6 these Kik Chats, it's clear that even when we find this first
7 chat, as they begin in -- and I'm referring to Government's 1,
8 Your Honor -- as they begin right around late November is the
9 first one that we recovered, it's clear that they already have
10 an existing relationship.

11 This is just as far as back as we could recover from the
12 defendant's phone, and we knew that there had been deletion of
13 what had been on the victim's phone in an effort to protect her
14 and to keep her away from the defendant.

15 What we then have from an investigative standpoint is we
16 have a victim who, candidly, believes that the defendant is her
17 older boyfriend, is in love with him, and is furious about what
18 she considers to be the betrayal of the confidence that she had
19 given within her family's structure that no one find out about
20 this and that he not get in trouble and that she not get in
21 trouble.

22 So when this is reported to law enforcement and they look
23 to have an interview with that victim, as has been referenced
24 by defense counsel, she meets with law enforcement and denies
25 any physical contact or ever meeting the defendant. She denies

1 that they engaged in any sex acts. She denies those things.

2 And we can go on for a long time about why that would
3 happen, but the evidence that we were hearing from stepmother,
4 the evidence that we were hearing from other folks -- the
5 stepmother said, Look, I remember what I read; I just deleted
6 it -- was that there had been sexual conduct between these two
7 where he had traveled to her.

8 And it took some time because of where she was, and she
9 was not the person who was coming forward to disclose this, and
10 it was a second interview --

11 MR. SZEKELY: I apologize for interrupting. May I
12 consult with the government for one moment, Your Honor?

13 THE COURT: Sure.

14 (Brief pause.)

15 MR. HAGAN: Your Honor, can we have a moment?

16 THE COURT: What's that?

17 MR. HAGAN: Can we have a moment?

18 THE COURT: Do you need to step outside?

19 MR. SZEKELY: No. Mr. Hagan is just pulling
20 something from his file. If we can just have a brief moment?

21 THE COURT: Oh, okay.

22 MS. RICHMAN: Thank you, Your Honor.

23 (Brief pause.)

24 MR. HAGAN: We're ready to proceed, Your Honor.

25 THE COURT: Okay.

1 MR. HAGAN: I apologize. I mischaracterized
2 something, so I want to make sure I correct the record.

3 THE COURT: Sure.

4 MR. HAGAN: The first interview with the victim in
5 this case, she was reluctant. She was not giving all of the
6 information, and it was apparent that she was not comfortable
7 in the setting. She did disclose that there was sexual
8 conduct. All of the facts surrounding that, et cetera, not as
9 forthcoming; but I had said that she said nothing, and that's
10 false. And defense asked about that, and they are correct to
11 be asking. That was not accurate.

12 She was hesitant with respect to identifying the person,
13 all sorts of other areas --

14 THE COURT: I was going to actually ask, because I
15 thought I had read that she, at a minimum, admitted to one time
16 having sex with the defendant.

17 MR. HAGAN: So it evolves and that's what I'm getting
18 to.

19 THE COURT: All right. So the initial time was that
20 one time. And then when you say it evolves, you mean her
21 disclosures?

22 MR. HAGAN: Correct.

23 THE COURT: Okay.

24 MR. HAGAN: And as we might expect, disclosure is an
25 evolving process, especially when we're dealing with children.

1 What happened next was we had another interview, armed
2 with a little bit more information and evidence, having done
3 more of an investigation at that stage, and we had the
4 disclosure with respect to three times.

5 Now, the government is not proceeding at this stage, given
6 our understanding of what our own burdens are, that we would
7 prove, even by a preponderance of the evidence, necessarily,
8 that there were three; but the defense is agreeing, and we
9 believe we would have proven here in a setting and potentially
10 at trial that there was certainly at least one.

11 THE COURT: When you say "one" --

12 MR. HAGAN: One time involving -- one time with
13 Victim 1 involving the defendant having traveled to her house,
14 engaging in sexual conduct that we described.

15 THE COURT: Got it. Okay.

16 MR. HAGAN: And as that process continues and the
17 case was originally charged locally in Montgomery County, and
18 it's adopted by my office, Victim 1 relocated, as the Court has
19 seen in the impact statement sent by her stepmother. There
20 were some serious difficulties that continued after as this
21 process was going on. Victim 1 no longer lives there. The
22 breakup of the marriage. Some really serious ripple effects
23 from this.

24 During that period of time, we also were in a position of
25 we've got to prepare for trial that's forthcoming, and we need

1 to meet with the victim and talk about what's happening as we
2 go forward, and it was during one of those prep -- a prep
3 meeting with that victim then that we met across the street,
4 and there Victim 1 was being prepped as a witness and said "one
5 time." And we said, you know, we were aware that it was three.
6 Why are you saying now one time? It was one time. We
7 disclosed that, obviously, to the defense.

8 And after that meeting, we obviously spoke to the guardian
9 and said this is what's being said now, and this is what was
10 said before, as you know. And we were told by the guardian at
11 that time, or at least by step mom that even after that
12 meeting, there was a confrontation or at least a questioning
13 why to the child did you tell the government one this time?
14 And we've talked about this before and it was three. And the
15 answer was it's none of your business; it's none of anybody's
16 business.

17 And I think that's important when we look at what we're
18 dealing with here. Even under the nature and circumstances
19 under 3553, we're talking about the predation on a vulnerable
20 child. We're talking about someone who does not appreciate and
21 wouldn't be and shouldn't have to appreciate all that goes into
22 this from a prosecution standpoint, from a moral standpoint,
23 from what is the conduct that she should -- how she should feel
24 about it, how she should process it, whether she should feel
25 ashamed or guilt or anger or something different.

1 And that's difficult even for adult victims of any kind of
2 sexual assault to deal with.

3 In this case, this is someone who absolutely wanted --
4 Victim 1 wanted to be appreciated and treated well and in a
5 relationship with the defendant, and he encouraged that.

6 And what resulted was the breakup of that family, as the
7 Court has seen in the impact statement. Victim 1 is now back
8 in the place where she had come, with her mother we're told,
9 living with the person who was her mother's boyfriend and had
10 abused her in the first instance. That was part of the reason
11 that she was no longer there in the first instance.

12 When you submit something and cast that net that the
13 defendant did online, people wonder who in their right mind
14 would respond to this kind of garbage, this kind of ad. The
15 answer is children who are not, perhaps, in their right mind.

16 And that's part of what makes this so serious. It's not
17 preying on people who may have been at that age better
18 equipped -- like Victim 4 who said "enjoy prison." Who may not
19 have been equipped to handle that, and he was able to exploit
20 that. And when he exploited that, he didn't do what some
21 others do, which is -- there is no evidence in this case of
22 threats, violence. He exploited that with feelings, with the
23 idea of a relationship, or at least that -- how much he cared,
24 or didn't dissuade her from professing her love to him in those
25 repeated chats.

1 We have someone who was soliciting routinely for his own
2 gratification, whether it was Victim 1 or others, routinely
3 soliciting that they do all sorts of sexual conduct, film it,
4 send it to him.

5 And in describing the nature and circumstances of the
6 offense, Your Honor, as we go through parts of Exhibit 1, there
7 are some things that I think the Court -- I would just
8 highlight that we otherwise would have gone through. Some of
9 those have to do with highlighted areas of just how we're going
10 to meet. You know, like the defendant and the victim talking
11 about when they are going to meet, what they are going to do
12 when they meet, how to set up the meeting. Part of it talks
13 about Martin Luther King Day. She may be off school that day.
14 So he'll be able to travel. He may not have to work that day.
15 He may be able to travel. So they set it up and they talked
16 about all of the sexual conduct that they will engage in.

17 They talk about going elsewhere because it was too loud
18 last time in the car, and they need to find a better place to
19 hide, maybe a hotel or something like that, a safe spot on the
20 18th. That meeting January 18th of 2016 doesn't happen because
21 of scheduling.

22 In talking about how the defendant manipulated emotionally
23 Victim 1, I direct the Court to Exhibit 1, Bates Stamp Evans
24 4685. This isn't going to be the most egregious example of
25 this, but just to corroborate what I've been telling the Court

1 about what was going a little bit maybe through her mind based
2 on what he was saying. He expresses concern here and does
3 elsewhere about whether she's been with other guys. Now, to
4 someone -- or is doing this with other guys.

5 Now, to someone who is in her shoes, the way this would
6 naturally be interpreted is that he's interested in her. He
7 doesn't want her to be with other guys. He cares about her.
8 This is not just about the sexual conduct. When he professes
9 an interest or a concern, that's the message she takes.

10 Your Honor, the reality is the bulk of this Exhibit 1 for
11 the government is occasional flattery in the sense of how good
12 she looks or how great she is in one way or another and
13 solicitations, just over and over, send me a picture of this,
14 do this, send me a picture of that, and she's trying to please
15 him. She's trying to do what he wants.

16 It is toward the end, Bates Stamp 4697, seven boxes from
17 the top where Victim 1 has been caught, and her stepmother is
18 now communicating that this is to stop with Mr. Evans. But as
19 the Court can see, it picks right back up, because the
20 enterprising 14-year old figures out a way to re-access these
21 Kik's and get back on these chats and communicating with him
22 now after he has been warned away by the adult.

23 And he continues even on the next page; send me a pic of
24 you so I know it's you, and then asks again for a video because
25 he crassly informs her that he misses her. And it continues.

1 Your Honor, Government's Exhibit 2 and 3 are intended
2 solely for one limited purpose, which was, as the Court may see
3 when it looks, and hopefully the Court has not been in this
4 position, but when you violate the toll, EZ Pass, you get a
5 bill. If you didn't have enough money in your account, you get
6 a bill sent to you with a video of your vehicle and license
7 plate going through the toll plaza that you weren't supposed to
8 because your EZ Pass didn't have enough money on it.

9 The reason we sent that is because it shows -- or that we
10 were going to submit that is because it shows that on
11 November 16 of 2015, on the ICC, the defendant was traveling,
12 and we would have argued that was one of the days or the day,
13 as it were, where they engaged in sexual conduct in the
14 Germantown area at the victim's -- near the victim's residence.

15 And part of the reason we were using that to prove is
16 because the defendant, as the Court knows from the PSR, was
17 living at the time just east, northeast of Baltimore and was
18 traveling through Fort McHenry tunnel, down 95, out the ICC,
19 out to meet her.

20 And Government's Exhibit 3 also showed from the MVA the
21 records corroborating that November 16, 2015 date that he had,
22 in fact, hit the toll plaza with his vehicle on that day.

23 It would also show that that was not a frequent thing. It
24 was not part of his work route or anything like that. The ICC
25 from a year's period of time, I think he traveled three times

1 in total between April of 2015 and April 2016.

2 So what makes -- when we look at the 3553(a) factors, Your
3 Honor, what makes this serious enough to merit not just the
4 sentence of the mandatory minimum, the 15, but, in fact,
5 higher; and what the government is requesting, which is a
6 significant sentence, 360 months with a lifetime of supervised
7 release, with the conditions that are requested by probation in
8 the PSR, as well as, obviously, the sex offender registry that
9 would be also required upon release.

10 Well, remember that one count of production carries that
11 penalty of the 15-year mandatory minimum. We are nowhere -- we
12 are nowhere near that here. And while it wouldn't be the only
13 reason, it's important to note we aren't talking about a single
14 isolated thing. We're talking about a pattern of conduct here
15 involving multiple victims. We're talking about an individual
16 who even when warned about prison, even when warned by adult in
17 the room, mom, without law enforcement intervention can't stop
18 or won't stop.

19 THE COURT: Well, even -- I mean, there is
20 conversation about this child going to therapy.

21 MR. HAGAN: Right.

22 THE COURT: And it continues.

23 MR. HAGAN: Toward the end, yes.

24 THE COURT: Yes. And disclosing to the therapist --

25 MR. HAGAN: Being forced to go to therapy.

1 THE COURT: -- about everything that happened when I
2 had unprotected sex with an older guy and how dangerous it can
3 be to meet someone online. And it goes on.

4 MR. HAGAN: This is at Evans 4703 in Government's 1.

5 THE COURT: Yep.

6 MR. HAGAN: With respect to the other victims, Your
7 Honor, the pattern was similar in the sense that the objective
8 here from the advertisements wasn't just the modeling pictures,
9 but it was to be in person, to interact personally.

10 And what we have with respect to Victims 2 and 3 is lots
11 of efforts made to meet, bus tickets, Uber. How can we make
12 this happen? You're coming from Baltimore. I'm coming from
13 Essex. You're coming from the D.C. area. I'm coming from up
14 around Middle River in Essex. You don't drive or you don't
15 have a car. You're a minor. Let's Uber, train, bus so that we
16 can meet. Those don't happen, thankfully, but that is --
17 that's what the net was cast for.

18 The Craigslist net succeeded with respect to Victim 1 in
19 that way and was -- and the evidence is clear was seeking to do
20 so regardless of the fact that these were minors, with multiple
21 other victims.

22 When we look at the seriousness of the offense, I think
23 that we also need to consider the effect. I talked a little
24 bit about the vulnerability of Victim 1.

25 Victim 3, Your Honor, is out of state, at some distance.

1 We had the chance, obviously, to interact with her, and we're
2 not making arguments, because I don't think -- I think it's
3 very difficult to prove one way or another direct traumatic
4 link to this trauma when you talk about someone who has been
5 repeatedly traumatized. Okay?

6 Victim 3, who in some ways had a very good support
7 structure in our experience and in our interaction, Victim 3
8 has been reported as runaway for the last three months. She's
9 still not -- she's 17 today, and her mother is worried sick,
10 obviously. She was reported as a runaway, and she's been gone
11 for three months.

12 I can't say that -- and no one is arguing that what
13 Mr. Evans did caused that, but what I can tell the Court is
14 that what Mr. Evans did with respect to Victim 3 didn't make it
15 any better. It didn't help.

16 With respect to the 3553(a) factors, Your Honor, and when
17 we want to afford adequate deterrence to criminal conduct, that
18 deterrence has to do not just with specific deterrence but with
19 general deterrence. The manner by which the defendant chose to
20 operate is scarily available to anybody with Internet access.

21 This is a case that may warrant more consideration of
22 general deterrence than maybe a case involving a teacher where
23 we know, for example, that teachers are supposed to have a ton
24 of training. The school system has an interest in making sure
25 that these things don't happen among their employees.

1 Here, this is someone who, because he had an Internet
2 connection, was able to begin seeking out children in this way;
3 and all it took was a free ad repeated over and over to start
4 plucking out the individuals that might be vulnerable enough to
5 respond to his compliments or communications and to continue to
6 go down the path of ultimately being exploited.

7 So we think that there should be some deterrence with
8 respect to this, general deterrence, that if you go onto
9 Craigslist or whatever site to start to do these sorts of
10 things, the consequences are going to be severe.

11 Obviously, there is a protect the public aspect to this
12 when we consider the factors. As the Court alluded to and as
13 we raised a moment ago, this is someone who had warning and
14 didn't stop. This is someone who had warning and
15 communications from other victims and it didn't stop him with
16 respect to other ones.

17 There are many ways that the defendant could have -- I'll
18 get to that in a moment.

19 Obviously, the guidelines in this case are high. The
20 government was in a position, based on what the offenses are,
21 et cetera, to ask for a sentence that would have been even
22 higher than what we're asking. The guidelines indicate that
23 that's within the guidelines. We don't believe that's
24 appropriate. We believe it's fair to be asking for what we're
25 asking.

1 One of the things that -- that's important about
2 considering the construct that he did, the fact that he
3 continued after being caught or at least threatened with prison
4 and noted is when I had a chance to read the extensive
5 submission by defense counsel and saw how traumatic -- which we
6 take no -- we do not dispute how traumatic the defendant's
7 upbringing was. What was really sad about this and his conduct
8 in this case was that he had other outlets that he had used as
9 a way of engaging in the risky conduct and behavior that they
10 described, ways that didn't hurt people in the same way that
11 this does.

12 No one is suggesting that it was a healthy thing for him
13 to be gambling the amount of money he was, but what it didn't
14 do was cause the effect on children and their families that
15 this conduct did.

16 That's why there needs to be more accountability, and we
17 believe a sentence that's more -- that's longer than the 15
18 years that's requested by the defense, because if this person
19 was in such a box based on his own experience that he had to do
20 things that were self-destructive or reckless, harming his
21 wife, harming his own relationships and putting those at risk,
22 what he didn't have to do is what he chose to do here, even
23 after warnings, which is go after these children, to go after
24 these young models, to solicit in a way that he did and have
25 what would have been foreseeable consequences here; 16, 15, 14,

1 17-year-old girls running away, engaging in other sexually
2 risky behaviors, failing out of school, whatever the case may
3 be.

4 That's why, a big part of why this is illegal in the first
5 place, to prevent those things from happening to children.

6 So, Your Honor, having looked at the 3553(a) factors, we
7 believe that it's appropriate to sentence the defendant to the
8 30-year sentence that we requested. We believe that it's
9 appropriate that he serve what's required, lifetime of
10 supervised release upon his release from imprisonment, with the
11 conditions that we requested in the PSR.

12 We also know that the defendant will be required and,
13 obviously, must register as a sex offender as a way of not only
14 protecting himself from engaging in this conduct, but also
15 protecting the community if he were to do so in the future.

16 This is someone who cast a net, found people, and when he
17 figured out what their vulnerabilities were, he went and he
18 took advantage and exploited those situations. Here he did it
19 with Victim 1 as we've shown.

20 We're grateful that they came forward. We're grateful for
21 the Victim Impact Statements that do a better job of explaining
22 exactly how serious this is than I ever could, and we believe
23 that the sentence that the government is requesting is
24 appropriate.

25 Thank you, Your Honor.

1 THE COURT: Thank you, Mr. Hagan.

2 Mr. Szekely?

3 MR. SZEKELY: Thank you, Your Honor.

4 This sentencing submission that I know the Court has
5 indicated its read detailed one of the most important aspects
6 of Mr. Evans' relevant past history. I'm not going to repeat
7 any of that here today. Of course, if the Court wished to
8 engage any of that, I'm happy to discuss it.

9 But I really would like to focus our presentation to you
10 on two things, first responding to a little bit of what the
11 government said in their presentation but also primarily
12 focusing on the future. I think that the Court has at this
13 point from all the submissions a very good sense of what the
14 past was in terms of the defense conduct and Mr. Evans'
15 personal history. We know what sort of the present is, which
16 is this proceeding. But what does the future bring?

17 But first I would like to address two points that the
18 government raised. First is on the point of general
19 deterrence. I think there is a very long philosophical
20 conversation to be had about the wisdom of general deterrence;
21 however, what I will say here is that a 15-year sentence is a
22 tremendously long sentence.

23 THE COURT: Can I stop you and tell you sort of where
24 I'm living right now? Because general deterrence is a factor,
25 but it's not what's really --

1 MR. SZEKELY: Sure.

2 THE COURT: -- causing me the greatest concern.

3 MR. SZEKELY: Sure, Your Honor.

4 THE COURT: The greatest concern I have is,
5 Mr. Evans, you're an exceptionally accomplished man in your own
6 right. You've served our country well, and I thank you for
7 that. You have also served in the last several hundred days
8 that you've been at CDF, the inmates there who can't talk for
9 themselves sometimes. They are not equipped as you are.

10 I've read all of your diary. I am particularly -- it's of
11 particular interest to me that we fix what is in my view an
12 inadequate detention facility, and you and others in a pretrial
13 setting should not be subject to no water, no heat in the
14 winter, no air conditioning in the summer, and the whole array
15 of, as you put it, subhuman conditions. And we're working on
16 it. Not fast enough. I'm putting that to the side, though.
17 I'm taking it into account, no doubt.

18 However, the part that I'm missing in all of this is an
19 understanding for why in this way, either from a psychosexual
20 evaluation standpoint, from a "I've really grappled with this"
21 standpoint; "I've put enough thought" -- Mr. Evans, I'm talking
22 in your voice -- "enough thought as to what's happened to the
23 these children as I have the inmates with whom I've spent every
24 day the last several hundred days."

25 I don't find that coming through, and that's troubling to

1 me, because the offense conduct is truly stomach turning. It's
2 petrifying. And I just don't -- one, I don't have an adequate
3 explanation for why -- and you're not expected to provide one
4 if it's going to be harmful, no doubt; but two, when you say
5 going forward, I don't even have an understanding of how going
6 forward this is going to be remedied, because, three, there is
7 so little attention paid to the -- to these girls in the
8 submission.

9 You know, so if you can get right there for me, that would
10 be helpful.

11 MR. SZEKELY: Certainly. And, Your Honor, I know
12 that Mr. Evans is going to address some of that in his
13 allocution.

14 THE COURT: Okay.

15 MR. SZEKELY: What I can say is in the time that I
16 have spent with Mr. Evans, in the course of this case, you
17 know, he has -- it has -- he's extraordinarily remorseful, Your
18 Honor.

19 Part of what happened in this case and the reason the case
20 ultimately got us -- the reason the plea happened relatively so
21 late -- there is a lot that happened before Ms. Richman and I
22 entered the case, but part of what went on in this case is
23 essentially that Mr. Evans had an idea of who he was. And I
24 think the Court has touched on some of that; who is he. And
25 the conduct in this case was really so removed from who he

1 thought he was that it took him an extraordinarily long time, I
2 think, to grapple with it himself, but he's done it.

3 And I think what is clear is that, one, he's accepted
4 responsibility. Number two, he's gone through this process of
5 how he's learning about this.

6 And the Court indicated, "But why this way?" And I think
7 one thing that is clear from Ms. Berman Reavis' (phonetic)
8 report is that, essentially, it's almost like an individual who
9 begins a drug, and you get a high off of the first dose, and
10 it's a small dose. And then every time it's more and more and
11 more and more, and each time you're trying to sort of feel what
12 you felt that first time.

13 And as Ms. Berman Reavis wrote on page 11 of her report,
14 the constant quest for stimulation, trauma-based reactions from
15 his painful past are intertwined with the emotional difficulties
16 and related to his conduct as outlined in the current charges.

17 THE COURT: And I read that and I accept it, but
18 there is a part of me that wonders what else. Because the
19 government raises a good point. There were lots of ways that
20 didn't involve children that Mr. Evans did and could -- they
21 are not healthy, but they didn't involve children to get that
22 thrill or to numb that pain.

23 And the problem that I have going forward is how do I
24 fashion a sentence that addresses that concern about protecting
25 the public and protecting young, vulnerable girls who -- there

1 is no -- you know, you're not disputing, and I don't expect you
2 to, that the advertisement was particularly targeted and
3 particularly viral.

4 So that's the part that --

5 MR. SZEKELY: Understood, Your Honor.

6 THE COURT: -- is driving me to consider this as more
7 serious than maybe, you know, the defense wishes me to.

8 MR. SZEKELY: Certainly, Your Honor. And I can raise
9 a few points for that.

10 THE COURT: Okay.

11 MR. SZEKELY: The first is prior to the conduct in
12 this case, Mr. Evans engaged in a series of, I think, sort of
13 risky sexual behaviors with adult women. And just like he
14 began maybe playing \$5 a hand of Black Jack until it kept
15 escalating, you have to sort of view this in the context of the
16 overall life he was living, which included sort of -- there is
17 a lot of things.

18 And, Your Honor, just so you know, there is a lot that
19 Mr. Evans hid from the world that is now out in the open in
20 front of many of the people he cares most about. One of those
21 things was this history of extramarital sexual relations, and
22 that began with initially age-appropriate individuals; and when
23 that was enough, it went further and further along. So that's
24 number one.

25 So there is sort of this line that I don't -- this is not

1 a case where an individual is collecting thousands upon
2 thousands of images of child pornography. And we see those all
3 the time in these cases where there is a very common fact
4 pattern. There is allegations of production. And then over
5 here there are a cast of images that are collected. And more
6 sadly, and I'm sure the government would say, those images are
7 not hard to find.

8 So there is no evidence in any of the devices seized by
9 the government and examined that there is this sort of hoarding
10 of other child pornography type images. So that's not here,
11 and I think that's important in terms of looking at it in the
12 future. Those images are readily available, and he hasn't
13 collected them then, and there is no indication that he will in
14 the future.

15 Another matter here is that Mr. Evans was traumatized as a
16 child. I think it's clear, and the government agrees with
17 that. And victims of trauma, part of the nature of trauma is
18 sometimes reenacting trauma, unfortunately, onto themselves and
19 sometimes onto others. And it's treatable.

20 And I think that in terms of public safety is what we're
21 talking about here. What can the Court do to make sure that
22 public safety is secured here, the first is -- and one thing I
23 want to add, there is no indication of threats in these cases.
24 A lot of times there are threats. There is further
25 distribution that adds to the harm. None of that is here.

1 So if we're looking to public safety, what can this
2 Court -- how can the Court be assured that Mr. Evans is
3 treatable? Well, the first is that we provided the briefing
4 providing generally low recidivism rates in these cases,
5 especially after treatment. Even if we were to factor in a
6 degree of underreporting of these offenses --

7 THE COURT: And I guess -- and forgive me if I wasn't
8 totally keyed into this, but I didn't know whether those
9 statistics you were citing me were targeted to contact cases.
10 And what I mean is I do see as a horse of a different color
11 even collection cases where there is no contact. There are
12 individuals who look at pictures and are mortified the fact
13 that the world learns about it but are not predisposed and do
14 not ever act on that.

15 MR. SZEKELY: And if I can add something, Your Honor?

16 THE COURT: Conversely, we have the converse here.
17 We don't have a lot of -- we don't have a ton of images, but we
18 have got someone who has earned the trust of 14-year olds to
19 not only send pictures of sexual activity but engage in sexual
20 activity.

21 MR. SZEKELY: I've provided this briefing to other
22 members of this bench in the past, and sometimes it's different
23 variations based on the facts. At the time we filed this
24 sentencing memorandum, we were, effectively, still disputing
25 with the government whether or not contact occurred. Today

1 we've come in and we've effectively resolved that dispute.

2 I have read these studies. Not every single study, Your
3 Honor, but some of these studies have actually looked at
4 contact offenses and, surprisingly, the recidivism rate is
5 actually lower sometimes when you look at contact offenses.

6 THE COURT: Is that because the sentences are longer
7 and the person ages out of any sort of predilection? I'm
8 asking because I want to understand it, not because I'm trying
9 to be cute with you.

10 MR. SZEKELY: Correct, and I don't think it's
11 necessarily -- these are primarily studies of state sentences,
12 which tend to be lower than the federal sentences. I think
13 it's part of the individuals with the contact offenses are more
14 readily steered towards the treatment and are more closely
15 supervised once out in the community.

16 That brings me to another point I was going to raise
17 later, but let me jump ahead.

18 THE COURT: Okay.

19 MR. SZEKELY: Supervised release isn't -- and I don't
20 mean to suggest that the Court should treat it as such, but an
21 afterthought in sentencing; it's part of the sentence. *Gall*
22 recognizes it as a punishment, but it is an important
23 non-incarcerated part of the sentence. So in looking at
24 supervised release, we're looking at the sort of supervision
25 Mr. Evans will be under.

1 I don't know of a higher degree of supervision the U.S.
2 Probation Office engages in than individuals convicted of
3 offenses like this.

4 THE COURT: And that's because we're not a decade
5 plus out, and I will be asking probation when the time comes to
6 actually recommend any other conditions that I can't think of
7 today, because it's going to be -- even if I were to go with
8 your recommendation, Mr. Szekely, we're at fifteen years. Ten
9 years, twelve years from now there may be additional treatment
10 and/or monitoring modalities that we can't even think of right
11 now.

12 MR. SZEKELY: And I --

13 THE COURT: So I'm with you on that. I think we're
14 talking the same language when it comes to supervised release.
15 It is a period of both, I think, corrective but also
16 rehabilitative opportunities. I'm seeing it that way.

17 MR. SZEKELY: And not just rehabilitative but an
18 opportunity for the Court to keep, through the probation
19 office, careful track of individuals who I will readily concede
20 the Court has a interest of knowing what they are doing.

21 THE COURT: That's fair.

22 MR. SZEKELY: And I don't think there is any
23 question, and Mr. Evans would agree that strong supervision is
24 appropriate. Not just that, Your Honor. I've done a lot of
25 these sentencings, and I know the Court has presided over a lot

1 of these cases, and when we have these kind of charges, I look
2 behind me and usually there is nobody back there.

3 And I think it speaks to the fact that we do have a
4 turnout today on behalf of Mr. Evans speaks to two things. It
5 speaks to the positive aspects of his character, as the Court
6 has acknowledged, but also speaks to the fact that in a sense
7 each of these individuals, because they care about Mr. Evans
8 but also because they live in the community, they are almost
9 going to be eight different probation officers, and they are
10 going to make sure that Mr. Evans does what he needs to do.
11 They are going to make sure that not a drop of alcohol passes
12 through his lips, if that's what's appropriate. They're going
13 to make sure he gets to his treatment appointments. They are
14 going to make sure he's checking in with his probation officer.

15 In the pretrial setting, we routinely talk along with the
16 third-party custodians. Is this person going to make sure that
17 you are following the rules and let your probation officer
18 know? One of Mr. Evans' friends here today is a Baltimore
19 County Police Officer. So these are people who are very
20 invested in not just Mr. Evans but in the well-being of their
21 community. And they are going to be helping to make sure that
22 Mr. Evans does exactly what he is supposed to do.

23 Going back additionally to public safety, the Court can in
24 the Bureau of Prisons order and Mr. Evans has asked to
25 recommend the sex offender management program, sex offender

1 management treatment program, and the RDAP program. Mr. Evans
2 is certainly not going to get a sentence reduction of a year
3 with these charges for going through the RDAP program, but he
4 is going to learn to develop coping mechanisms to make sure
5 that he doesn't reach for alcohol when life is hard when he
6 comes out.

7 And that's the sort of treatment, that language of the
8 substance abuse treatment can transfer over to the other
9 treatment he's going to get, which is a sex offender treatment
10 program.

11 THE COURT: Can I ask you -- because it's been a
12 minute since I've really had to drill down on this in a prior
13 professional life. You're recommending, you're actually asking
14 me to impose and put in the judgment the sex offender
15 management, as well as treatment program; is that right?

16 MR. SZEKELY: That's correct. And they are different
17 but related.

18 THE COURT: Correct.

19 Does the Bureau of Prisons, though, still engage in the
20 same sort of proactive assessment and/or refer inmates for a
21 look-see as to whether they are sexually dangerous offenders?

22 MR. SZEKELY: So I've spoken with my colleagues in
23 North Carolina who handle I think it's 3148, the civil
24 commitment. So the process -- I haven't briefed it here, but
25 I'm happy to discuss it with the Court. The process

1 effectively is anyone going in on a charge like this or anyone
2 with a charge like this in their past, as they reach their
3 release date, their presentence report, anything that's on file
4 is forwarded to a team in Butner. So that goes to a team, the
5 Bureau of Prisons doctors at Butner, and they make an
6 appropriate -- they do a review and they make a recommendation
7 as to whether the government should proactively seek civil
8 commitment at the end of a sentence based on a concern of
9 future sexual dangerousness.

10 So at first I would argue -- and, frankly, I didn't brief
11 it here because I think it's extraordinarily unlikely Mr. Evans
12 would trigger that given --

13 THE COURT: You're saying unlikely?

14 MR. SZEKELY: I think it's unlikely he would be
15 recommended for - I think his condition is treatable, and I
16 think he's unlikely to engage in the sorts of behaviors that
17 would trigger that review. The behaviors that would trigger
18 that review would be, for example, refusal so participate in
19 mental health or sexual treatment programs. Triggers --
20 another thing that would trigger that would be apparently it's
21 pretty common that individuals will get clothing catalogues of
22 young children, essentially collect images of children in their
23 cells, in the mail, and things of that nature, a log. And if
24 there is a determination that person is viewed to be sexually
25 dangerous, the government proceeds with a trial, and it's a

1 bench trial in front of a district judge in the Eastern
2 District of North Carolina, and it's by a clear and convincing
3 standard. And the government is not always successful.

4 Frankly, I think that judges are sometimes reluctant to do
5 that, but there are certainly a number of people sitting
6 primarily in state institutions. There is really no federal
7 facility to house individuals who have been deemed in that
8 fashion. There are some at Butner. Primarily they are
9 returned to their home state and housed in a facility in their
10 home state and they're periodically reviewed.

11 And if at some point they have undergone treatment
12 programs and re-evaluated, they can be conditionally released.

13 THE COURT: I note it just because it seems like in
14 addition to an internal incentive to do it, if that process as
15 you described it still exists, there is also an external
16 incentive to participate fully in these programs, which could
17 only help to protect the public in the future and reduce the
18 risk of recidivism.

19 That's kind of where I was just trying to understand what
20 the incentives are inside as you describe them.

21 MR. SZEKELY: And they exist, and not just that, I
22 think it's an important -- I think it's a public safety
23 backstop to the sentence imposed here, because if Mr. Evans is
24 deemed in that way, you know, he could be detained. The law
25 permits indefinitely until he's no longer a danger. I don't

1 think that's going to be the case here.

2 I think his conditions here are treatable. I think not
3 just that they are treatable but that he wants it. They could
4 offer Mr. Evans the best possible treatment options in the
5 world, and if Mr. Evans doesn't want it, it's not going to
6 work. It's like anything. You need to be a willing and open
7 participant, Your Honor.

8 And I can tell you that the Mr. Evans who I was appointed
9 to represent, I think almost exactly a year ago, and the
10 Mr. Evans sitting here today, he's a different person.

11 And I know everyone comes before the Court and they say,
12 Your Honor, I'm a changed man. I'm not the person I was when I
13 got arrested. Mr. Evans has shared the details of his life
14 with us, that we have now shared with the Court, that he has
15 never shared with anyone. And it's been difficult. And
16 certainly the role of the Federal Public Defender's Office is
17 not to act as a therapist for our clients. Our role is to
18 represent our clients zealously in an adversarial criminal
19 proceeding.

20 But in large ways, as we've represented Mr. Evans, he has
21 through this process learned a tremendous bit -- tremendously
22 about himself. He has learned that -- what has led him to make
23 certain choices in his life. He has learned how to avoid them.

24 The CDF mental health situation there is not great. If
25 you have a pre-existing diagnosis or come down with something

1 which is easily medicatable, sometimes you get the medication;
2 sometimes you won't.

3 In terms of any sort of meaningful cognitive behavioral
4 therapy or talk therapy or something you would really need to
5 start to understand yourself, Mr. Evans has largely done that
6 on his own. And through especially Ms. Sandman has spent
7 countless number of hours with him, as well as Ms. Richman and
8 I.

9 Mr. Evans has read every book he can read about addiction
10 and mental health. He's learning about these things. As he's
11 learning about these things, he's learning about himself. He's
12 learning how not to -- how not to do these things again, Your
13 Honor.

14 It's certainly true we did not get a report from a
15 Dr. Berlin (phonetic) or someone like that who says, well, I've
16 met with the defendant and he's not a pedophile. Frankly, I
17 think the report we've provided here I think is more helpful
18 because I think it goes more into the big picture of Mr. Evans,
19 because this conduct here shouldn't be viewed in isolation.

20 As the government said, there is all of this other risky
21 behavior out there. We need to look at this conduct within the
22 context of his entire life and how he ended up there. And it's
23 been a long, slow process, and in a way -- it's very tragic in
24 a way. Just as Mr. Evans sort of witnessed sort of his
25 mother's long, slow progress through life, unfortunately, until

1 she passed, Mr. Evans, though, hidden, is not as well-shown,
2 has been going through a similar sort of process in his own
3 life where his behavior has become more and more risky. His
4 own mental health struggles have become more and more serious.

5 We saw in Ms. Berman Reavis' report statistics about the
6 children of extremely mentally ill people, especially those who
7 witness suicide attempts, how much it traumatizes them.

8 Mr. Evans has said himself, though he's never hurt himself,
9 there certainly have been times where he thought it would be
10 easier if he could get very sick and just die.

11 Mr. Evans doesn't want to die. What Mr. Evans wants to do
12 is get well. Mr. Evans wants to serve his sentence. He wants
13 to get well, and he wants to return home and continue on with
14 his life as best he can. And supervised release is an
15 important component of that.

16 He will receive the beginnings of treatment in the Bureau
17 of Prisons. The sex offender management unit has some informal
18 treatment options that begin. There is a more intensive
19 program as you get closer to the release date, which I think
20 intuitively makes sense because you want to get out and
21 continue on refresh into your community-based treatment.

22 But the one reason we asked for that sex offender
23 management unit is, frankly, safety; but another reason is so
24 that he can start to benefit from those group therapy sessions,
25 for example, that aren't part of the formal treatment program.

1 Anecdotally, I suspect the mental health treatment might
2 be somewhat better in those facilities because they are more
3 attuned to the needs of the individuals. And we certainly want
4 Mr. Evans to get the mental health treatment that he needs.

5 If we take Mr. Evans and we treat the things within him
6 that need to be treated, the public can be secure. He'll also
7 be older. He's been detained now for 24 months, 25 months just
8 about. He'll be in his mid-40s at the time the sentence is
9 done.

10 THE COURT: Watch it, Mr. Szekely. That is very
11 young.

12 MR. SZEKELY: Of course, Your Honor, yes. I'm headed
13 there myself.

14 THE COURT: You have a lot of life left, Mr. Evans.

15 MR. SZEKELY: And I think that that is exactly what
16 we're saying. Mr. Evans wants to have a lot of life left, and
17 he's going to do the things he needs to do to get there. He
18 doesn't just want life. He wants a good, meaningful life with
19 the people he cares about.

20 He's extremely remorseful. He's expressed his remorse to
21 us, to his father in his letter. He's going to express it
22 again here today, Your Honor.

23 Your Honor, I think the Court can look at where we were,
24 that Mr. Evans had left some factual matters open, and we've,
25 over time, resolved those. I think that's not without meaning

1 in this process in terms of Mr. Evans' understanding of what
2 this process is about and what he needs to do with himself to
3 get better.

4 THE COURT: Well, I see it as, no doubt, I mean,
5 mitigating because without it, you have to take the family
6 through it. You have to take the government through it.
7 Whether it's restitution or challenging the victim's conduct,
8 the victim's recitation of the conduct, challenging the
9 evidence, all of which just burns the resources of the
10 government, but it also just prolongs the -- I think the
11 injury.

12 So I do note that Mr. Evans has, with the assistance of
13 your office, really focused on what's most relevant to the
14 Court, and I appreciate that.

15 MR. SZEKELY: Thank you, Your Honor.

16 And just to sort of wrap up the public safety portion of
17 it, the Court has a lot of tools at its disposal. I would
18 suggest that additional incarceration is, perhaps, the bluntest
19 tool, and I think there are undoubtedly cases where it's just
20 clear that there is nothing to be done, and this is an
21 individual who simply needs to be not in the community. There
22 is no other way to protect the community except to take this
23 person out of it for a long time.

24 Fifteen years, number one, is a very long time. It is a
25 substantial sentence.

1 And number two, Mr. Evans is not such an individual. He's
2 treatable. There is, as we said, the backstop of civil
3 commitment. There is -- Mr. Evans is as motivated as any
4 client I've ever met with to participate in these treatment
5 programs, but there is the additional incentive of if you do
6 the treatment program, the government is not as likely to
7 detain you because you've done what the government views as the
8 appropriate steps to take to not be a dangerous individual upon
9 your release.

10 So for those reasons, Your Honor, I do believe a 15-year
11 sentence in this case is appropriate.

12 And if I can talk a little bit more about supervised
13 release and why I believe supervised release -- it could be a
14 meaningful part of the sentence in this case that also
15 addresses public safety. Mr. Evans, in a structured
16 environment, Mr. Evans follows the rules to a T. He had an
17 excellent military career. He's been at CDF --

18 THE COURT: That cuts both ways. I mean, he was
19 gainfully employed in all of those ways and put on a very
20 public persona that suggested discipline and order, and yet
21 there are five children who were contacted directly or
22 indirectly for sex, for sex for money. So I hear you, but that
23 is of limited value in my opinion, because it -- so anyway, I
24 didn't mean to interrupt you, but I did because I want you to
25 be able to address this notion that I have an individual who

1 knows how to follow rules, has been -- he's decorated from the
2 military because of that. He can take -- you know, he can
3 convince folks that he's quite the leader. But he can also,
4 you know, convince children to do terrible things.

5 MR. SZEKELY: Well, he wasn't on supervised release.
6 He wasn't having his computer use monitored.

7 THE COURT: So there is not going to be any objection
8 to those recommended conditions of supervised release?

9 MR. SZEKELY: There is nothing the probation office
10 has recommended in this case in terms of supervised release
11 that we object to. That's correct. We think given the conduct
12 in this case, given Mr. Evans' need for ongoing treatment, we
13 think those are all reasonable and appropriate, and I think we
14 would have no objection to the Court making the necessary
15 findings under the statute that those are appropriate
16 conditions of supervised release tailored specifically to
17 Mr. Evans.

18 THE COURT: Okay.

19 MR. SZEKELY: So he's going to be monitored, and
20 Mr. Evans was on pretrial release in Montgomery County for
21 several months before his federal arrest. We've attached those
22 records to the sentencing memo. He reported twice a week,
23 traveling from Baltimore County to -- I'm sorry, Mr. Evans, was
24 it Gaithersburg or Rockville that you had to travel to?

25 THE DEFENDANT: It was Rockville.

1 MR. SZEKELY: Going there to Rockville twice a week
2 as required in compliance. The only infraction -- I'll put
3 that in quotes is -- he had a GPS violation when the marshals
4 here cut his ankle bracelet off when he was taken into custody.
5 So he has a track record.

6 So I understand, Your Honor, it's a small slice in time
7 compared to the term of supervised release we're talking about
8 here, but I think that it's meaningful to show that he can, in
9 fact, comply with those requirements while he's on release.

10 So unless -- Court's indulgence.

11 (Brief pause.)

12 MR. SZEKELY: Your Honor, unless there is anything
13 else the Court wishes to discuss, I know that -- I'm happy to
14 answer any questions the Court may have. I know that Mr. Evans
15 has prepared an allocution. I know that he wants to share it
16 with the Court, and I have the -- our sentencing recommendation
17 as to facilities, but I can do that at the end or now, whatever
18 the Court prefers.

19 THE COURT: All right, that's fine.

20 I just want to see if Mr. Hagan has anything to add with
21 respect to the fact that Mr. Evans will be very closely watched
22 while he's in -- for his term of incarceration. He will be
23 subject, if there is any concern to his particular -- concern
24 with respect to the likelihood that he will re-offend and
25 re-offend in this way, that the government does have now a

1 quite well-established program where anyone can be brought
2 before a civil -- a judge for a civil commitment, which I find
3 to be -- I think this may be the only kind of offense that
4 triggers that kind of scrutiny, meaning set of offenses, set of
5 conduct.

6 Do you have anything to add in that respect or anything
7 else that you wish for me to consider in that regard?

8 MR. HAGAN: No. Thank you, though. Thank you for
9 consulting, Your Honor. No.

10 THE COURT: All right, thank you.

11 Mr. Evans, we've been talking for quite some time about
12 very difficult things for everyone, not only you, but for the
13 victims involved in this case and their families. I understand
14 from your counsel that you may wish to speak to me now. You
15 don't have to. You have the absolute right to remain silent.
16 I have read your statement. I will not hold your silence
17 against you, but if there is anything that you wish for me to
18 know before I impose sentence, then now would be the time.

19 THE DEFENDANT: I would like to speak, Your Honor.

20 THE COURT: Okay. And you can stay seated or stand,
21 whatever is most comfortable.

22 THE DEFENDANT: Your Honor, Thank you for allowing me
23 the opportunity to speak. As I have not spoken publicly in
24 quite some time, I hope that you do not mind that I read from
25 my notes.

1 I would first like to say that everything I wrote in my
2 letter to you was genuine. Writing everything out like that
3 made me realize even more that I've been through a lot. I've
4 experienced many traumatic events in my lifetime, but it wasn't
5 until most recently that I knew how they truly affected me as a
6 person.

7 During my two plus years in detention, I've educated
8 myself on those events which I have -- which has enabled my
9 recovery and healing process to begin.

10 I would like to apologize to my friends and family for
11 everything that I put them through over the last few years and
12 also thank those who have stuck by me through everything. I
13 would also like to thank my entire defense team for all of
14 their hard work.

15 Lastly, I would like to sincerely apologize to anyone that
16 I have hurt or victimized throughout the course of my entire
17 life, and especially to those related to these most recent
18 events. I hope in time that I can be forgiving. If not, then
19 I hope that you can understand that I have never intended to
20 harm anyone ever in my life, and this situation has taught me
21 many valuable lessons that I will never forget.

22 I hope that I will have the opportunity to once again
23 become a productive member of society. I believe through my
24 education and experience that I can help many others overcome
25 what I was unable to overcome by myself.

1 I realize that I need the help of others to survive in
2 this world, and some day I would like to be that help for
3 someone in need so that I may help to save their life, just as
4 so many others have helped to save mine.

5 Thank you for your time and patience.

6 THE COURT: Thank you, Mr. Evans.

7 (Conference at the Bench.)

8 It is the policy of this Court that every guilty plea and
9 sentencing proceeding include a bench conference concerning
10 whether the defendant is or is not cooperating.

11 (Open court.)

12 THE COURT: Mr. Evans, one of my deepest concerns for
13 you -- and this may not be wholly fair, but it is still the
14 deepest concern I have is that this process of really
15 understanding the nature of your crime -- and it's a crime --
16 is not -- it's just beginning, that there is going to have to
17 be many years of really reconciling with the fact that it's not
18 just anyone who was involved. They are not adults. They are
19 babies. I know that -- for you not having -- not being a
20 parent yet, it's -- I think it may hit you differently if and
21 when you do become a parent.

22 But children at that age are so much more children than
23 they are adults, and there is no other word for what happened.
24 You preyed on their vulnerabilities, and I understand that you
25 were once a child too and went through some horrible, horrible

1 things and saw things that I'm glad you can now talk about,
2 because that is the only way that you're ever one day going to
3 really look in the eye -- look yourself in the eye and be
4 honest, fully honest about how serious this offense was.

5 It's my greatest hope for you, because you do have
6 support, you have -- there is a lot of love in this room for
7 you, and you do have a resilience, both your brain as well as
8 your heart, that you're going to be able to dive right into the
9 therapy that you need so that maybe when I see you again, the
10 conversation is going to be different, because I don't believe
11 you have fully come to terms with just the gravity of what
12 you've done.

13 So I have to take it all into consideration. If I were
14 just looking at protecting the public or the seriousness of the
15 offense, I would be imposing every bit of what the government
16 is asking for. If I were just looking at getting you home and
17 in a place that is most close to your loved ones, I would be
18 weighing against the mandatory minimum. I have to take it all
19 into account.

20 There are five victims as I see it. One whom there was a
21 longstanding relationship that has forever scarred her and
22 likely forever scarred you; and then there is a whole range in
23 between of sex for money with children; requests for it in
24 treatises when no one is looking because you obviously have too
25 much pride and concern for your family and conscience that you

1 wouldn't do that in open, in public.

2 I am comforted by the fact that you will be on
3 supervision, and I will impose lifetime supervision, at least
4 initially, because I expect to be here when you are released,
5 when you are on supervision, and I expect to be hearing
6 affirmatively and proactively how you're doing. I can always
7 reconsider bringing that down if you are doing well and you are
8 in compliance. And hopefully you've already heard, I do that
9 very actively, especially in cases like this. I do not shy
10 away from inviting you to tell me the good and the bad and the
11 in between of supervision.

12 I'm also comforted -- and I know our probation office is
13 quite good at it, and they will only get better with technology
14 and with education by the time you are on supervised release.
15 My hope is that the system that will be in place will be far
16 better calibrated and that not only helps you but it reduces
17 the chances that this will ever happen again, and in that way
18 it does protect the public.

19 I'm also heartened to hear that there is still a program
20 by which if the government is concerned while you are
21 incarcerated that you are not living up to the promises you've
22 made through counsel of really drilling down on your
23 rehabilitation, and if they are concerned that you are one of
24 the handful of folks -- and I can't know that with certainty.
25 Nobody can -- one of the handful of folks that the government

1 views as so dangerous that longer than an incarcerable term
2 that I'm considering is on the -- up for consideration, they
3 can so move.

4 That gives me comfort, because today isn't the end of the
5 protect the public piece, which is why I'm not going to do what
6 the government requests. I'm not going to do near what the
7 government requests, but I am not going to impose the mandatory
8 minimum.

9 In my view, the mandatory minimum is for a single offense
10 with a single victim and, perhaps, single production, and we
11 don't have that here; but I do take to heart that my mandate is
12 sufficient but not one day greater than necessary. I'm very
13 aware that at some point too much incarceration actually works
14 the opposite.

15 So therein is my struggle, which is your struggle, and the
16 sentence of the Court will be 204 months custody of the Bureau
17 of Prisons. That's 17 years. You will be -- get credit for
18 every day that you have served. And as I mentioned to you
19 earlier, I have already in my view credited that your time in
20 pretrial detention has not only been very difficult, but it has
21 been one in which you have gone above and beyond for others.
22 And not everybody that comes here -- everybody tells me how bad
23 it is, and I try to take it into account every time, but not
24 everybody comes forward and says that they have tried to help
25 others, and I do credit all of that.

1 I also note you have significant family support and that,
2 in my view, warrants a sentence that is not only lower than the
3 guidelines but lower than what the government requests.

4 You will then serve supervision for the rest of your life,
5 and in addition to the standard conditions, I will require that
6 you comply with the Sex Offender Registration Notification Act
7 as directed by the probation officer, the Bureau of Prisons, or
8 any state sex offender registration agency where you reside,
9 work, is a student.

10 You will also participate, upon your release, in a sex
11 offender specific assessment and in a treatment program that's
12 deemed appropriate by the probation office.

13 The probation officer will install computer monitoring
14 software on any computer that you use, whatever devices that
15 may be, phone, strange things that we invent between now and
16 when you are on supervision, and computers.

17 You will be giving probation, at least in the beginning
18 phase of your supervision, the authority to conduct initial and
19 periodic unannounced searches of any devices that are capable
20 of acting like a computer; and these are for the purposes of
21 determining whether there is any prohibited data, whether that
22 be images or conversations with anyone who appears to be a
23 minor. And I expect to learn if there is anything, obviously,
24 immediately.

25 You must warn any and all other people who may be using

1 those computers or devices that they may be subject to this
2 unannounced search.

3 I'm not going to impose a fine.

4 Is there an agreed upon restitution amount?

5 MR. HAGAN: Your Honor, none is sought by the
6 government. We have reached out repeatedly, and at this stage
7 we don't have a number to submit.

8 THE COURT: Okay. So there is no restitution.

9 There is a special assessment for five counts -- have I
10 got that right -- so a \$500 special assessment. That will be
11 due and payable during supervision. I'm not going to make you
12 part of the Inmate Financial Responsibility Program. My hope
13 is that you devote all of your energies to the treatment
14 programs that I will recommend as outlined by your counsel.

15 Is there any particular facility that you wish for me to
16 recommend?

17 MR. SZEKELY: There is, Your Honor. We've reviewed
18 programming facilities with Mr. Evans. We request FCI
19 Petersburg low. I believe, subject to the Bureau of Prisons'
20 procedures, I believe the sentence the Court is imposing today
21 would qualify him for placement in a low facility. And it has
22 both an RDAP and a sex offender management unit there.

23 THE COURT: It does? Okay.

24 MR. SZEKELY: So we would ask that he be housed in a
25 sex offender management unit, recommend him for a sex offender

1 treatment program, and participation in RDAP and any other
2 mental health treatment the Bureau of Prisons finds
3 appropriate. And I'll talk with Ms. Blanche regarding sending
4 these reports through the "e" designated system so that mental
5 health staff there is made aware of Mr. Evans' needs prior to
6 his arrival.

7 THE COURT: Okay.

8 And, Mr. Szekely, if you would also confer with
9 Mr. Ulander to make sure that the language in the judgment is
10 as well-crafted as possible to maximize the chances --
11 Mr. Evans, I can't guarantee that you will receive FCI
12 Petersburg low. I do note it's closest or er to your family,
13 and I would encourage your family to stay very active in your
14 life, and I encourage you to keep letting them in. So I do
15 believe it is appropriate to try to get you as close to them as
16 possible.

17 So whatever you wish to tinker with that language and then
18 I'll review it, Mr. Szekely.

19 MR. SZEKELY: Will do, Your Honor. Thank you.

20 And the last thing, I will note that Mr. Evans has been in
21 continual federal pretrial incarceration since April -- I'm
22 sorry, August 23, 2016.

23 THE COURT: Okay. So there is no dispute that he'll
24 be receiving credit for those days. If you learn otherwise,
25 let me know, but those days should be absolutely credited.

1 MR. SZEKELY: They should be credited under 3585.

2 Thank you.

3 THE COURT: Any other aspect of the sentence that I
4 have failed to address?

5 MS. BLANCHE: To be clear, Count Two carries a
6 maximum of 120 months. Would that be the sentence for Count
7 Two and --

8 THE COURT: Yes, correct. So Count Two -- you're
9 right. You're right, that will be concurrent. And the
10 supervised release is obviously concurrent.

11 Okay, anything else? Are there any counts to dismiss?

12 MR. SZEKELY: Your Honor, if I can take a -- while
13 he's dismissing counts, if I may take one look at something,
14 Your Honor?

15 THE COURT: Sure.

16 Mr. Hagan, do you have counts to dismiss?

17 MR. HAGAN: I do, Your Honor. We're also looking at
18 the special assessment.

19 MR. SZEKELY: Your Honor, I think Mr. Hagan -- there
20 is a special \$5,000 special assessment that can be made due in
21 these cases. The statute permits it to be waived in the case
22 of indigency. I would ask the Court to make a finding of
23 indigency and not require -- I don't know if that is what
24 Mr. Hagan was about to say, but to not make that payable in
25 this case.

1 THE COURT: I note that the presentence report shows
2 negative net worth, negative monthly cash flow. Mr. Evans will
3 not be gainfully employed with a reasonable wage for quite some
4 time. I'm going to find -- make that finding of indigency.

5 MR. HAGAN: Thank you, Your Honor.

6 The government would move to dismiss Counts One, as well
7 as Count Seven through I believe it's Fourteen.

8 THE COURT: Okay.

9 MR. HAGAN: Oh, and -- yes, thank you. This was a
10 Superseding Indictment, Your Honor. So the government would
11 also move to dismiss the original indictment.

12 THE COURT: Okay. All right. Granted.

13 All right, Mr. Evans, you may or may not have given up
14 your right to appeal my sentence. I don't recall from your
15 agreement. So please speak with your counsel as soon as
16 possible, because if you disagree with my sentence, you have to
17 note your appeal within 14 days. Okay?

18 I otherwise wish you the best of luck. Please let me know
19 how you're doing at every turn. You write me about whatever
20 program you've completed, and you tell me how you're doing.
21 I'm beginning to announce this to you all. I will write you
22 back. I will give you the -- I will give you whatever words of
23 encouragement that my pen on a paper can give you in the hopes
24 that it -- at the end of the day, works to make sure we're
25 never back here, except for good news with you. Okay?

THE DEFENDANT: Thank you, Your Honor.

THE DEPUTY CLERK: All rise.

I, Marlene Martin-Kerr, FCRR, RPR, CRR, RMR, certify that the foregoing is a correct transcript of the stenographic record of proceedings in the above-entitled matter.

/s/

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